NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

XIAOGANG LIANG,

      Petitioner,

  v.

ERIC H. HOLDER, Jr., Attorney General,

      Respondent.

No. 06-72394

Agency No. A095-302-053

MEMORANDUM[*]

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 18, 2009[**]

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

    Xiaogang Liang, a native and citizen of China, petitions for review of the

Board of Immigration Appeals' ("BIA") order dismissing his appeal from an

immigration judge's decision denying his application for asylum and withholding

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    [*]   This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

    [**]   The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for substantial evidence, *Nagoulko v. INS*, 333 F.3d 1012, 1015 (9th Cir. 2003), and we deny the petition for review.

Substantial evidence supports the BIA's denial of asylum because Liang's five day detention and being hit and slapped did not rise to the level of past persecution. *See Prasad v. INS*, 47 F.3d 336, 339-40 (9th Cir. 1995). Furthermore, substantial evidence supports the conclusion that Liang has not established a well-founded fear of persecution if he returns to China. *See Nagoulko*, 333 F.3d at 1018; *see also Li v. INS*, 92 F.3d 985, 988 (9th Cir. 1996) (stating that fear of prosecution for illegal departure does not establish a well-founded fear of persecution). Accordingly, Liang's asylum claim fails.

Because Liang failed to demonstrate eligibility for asylum, it follows that he did not satisfy the more stringent standard for withholding of removal. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1190 (9th Cir. 2006).

PETITION FOR REVIEW DENIED.